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MAY 16 2005

In re Application of:
Fernando Gonzalez et al.
Serial No.: 09/375,081
Filed: August 16, 1999
Attorney Docket No.: MIO-007-NA

DECISION ON PETITION TO
WITHDRAW THE HOLDING
OF ABANDONMENT

This is a decision on the petition entitled "PETITION TO WITHDRAW A HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181" filed on October 7, 2004. Although the first sentence of the petition states "(t)he following is submitted in support of Applicants' Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b)", the petition is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper response to the Office action mailed on February 5, 2004. A Notice of Abandonment was mailed on September 30, 2004.

Petitioner asserts that a response to the Office action was timely filed on April 16, 2004 via facsimile transmission. The evidence provided by the petitioner includes a statement which basically attests upon a personal knowledge basis to the previous facsimile transmission as well as a copy of the sending unit's report confirming transmission. A copy of the "Auto-Reply Facsimile Transmission" and a copy of the response were also included as attachments to the petition. The copy of the response contains the required certificate of facsimile transmission (dated April 16, 2004) under 37 C.F.R. § 1.8 (a)(1)(ii). The evidence is sufficient under 37 C.F.R. § 1.8 (b) to establish that the response was timely filed.

Although the facsimile cover sheet (attached to the petition and included on the "Auto-Reply Facsimile Transmission") has mostly incorrect file information, the response, asserted by petitioner to be the response faxed with the facsimile cover sheet, does have the correct file information. The assertion from the petitioner together with the following facts are sufficient to establish that the response attached to the petition is the same response that was faxed together with the given facsimile cover sheet. Those facts are: (1) the Client Number listed at the top of the facsimile cover sheet matches the Docket No. listed on the response as well as

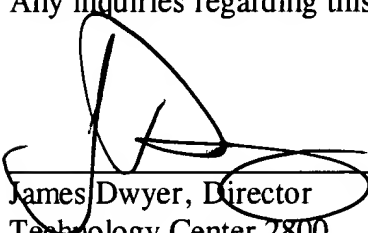
the Docket No. listed on some previous papers filed in the above-identified application; (2) the correct examiner is listed on the facsimile cover sheet; and (3) the number of pages listed on the facsimile cover sheet matches that of the response.

For the above stated reasons, the petition is granted. The Notice of Abandonment mailed September 30, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on October 7, 2004 is accepted since the originally submitted response was not matched with the above-identified application nor matched with the application whose Serial No. is listed on the facsimile cover sheet and cannot be otherwise located.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the examiner for prompt appropriate action.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
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